

## **REMARKS**

### **Summary of Office Action**

Claims 36-50 and 81 stand rejected under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter.

Claims 36-41, 43-45, 48-52, 55-56, 58-60, 63-67, 70-71, 73-75, 78-80 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Acosta et al. (U.S. Patent No. 6,643,625) in view of Business Wire (*Triangle Announces Introduction of DESC 2000*, May 27, 1999), and further in view of Libman (U.S. Publication No. 2007/0043654).

Claims 42, 47, 53-54, 57, 62, 68-69, 72, 77 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Acosta et al. in view of Business Wire, in view of Libman (U.S. Pat. Pub. No. 2007/0043654), and in further view of Tealdi et al. (U.S. Pat. Pub. No. 2001/0029482).

Claims 46, 61, 76 stand rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Acosta et al. in view of Business Wire, in view of Avery et al. (1996), in view of Libman, in view of Jewell (1999), and further in view of Cole (U.S. Pat. Pub. No. 2002/0133371).

Claims 81-83 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Acosta et al. in view of Business Wire, in view of Libman, and in view of Olin (U.S. Patent No. 7,184,981).

### **Status of Claims**

Claims 36, 51, 66 and 81-83 are amended. Support for the claim amendments may be found throughout the specification and, particularly, at pars. [0146] – [0151] and Fig. 11A of the

pre-grant publication of the application, U.S. Pat. Pub. No. 2006/0074793. Claims 36-83 are pending for consideration.

**All Claims Are Patentable**

**35 U.S.C. § 101**

Claim 36-50, 81

Claims 36-50 and 81 stand rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed to non-statutory subject matter. For the purpose of expediting prosecution, Applicants have amended claims 36 and 81 to recite, in part, “wherein the loan tracking module and the sample selection module are executed via a processor.” Accordingly, claims 36-50 and 81, as amended, are not directed to software *per se*. See MPEP § 2106.01. Applicants respectfully assert that claims 36-60 and 81 recite patentable subject matter and respectfully request the § 101 rejection be withdrawn.

**35 U.S.C. § 103(a)**

Claims 36-41, 43-45, 48-52, 55-56, 58-60, 63-67, 70-71, 73-75, 78-80

Claims 36-41, 43-45, 48-52, 55-56, 58-60, 63-67, 70-71, 73-75, 78-80 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Acosta et al., in view of Business Wire, and further in view of Libman.

Claim 36 recites, in part, “a second tool to select an amount of the plurality of loans from each of the plurality of risk results up to a designated maximum target loan sample size.” Claims 51 and 66 recite, in part, “selecting . . . an amount of loans from each of the plurality of risk results up to the designated maximum target loan sample size.” The combination of Acosta et

al., Business Wire, and Libman does not disclose these features. In response to the Applicants' arguments filed on October 6, 2009, the Office Action indicates a disagreement with the Applicants' arguments "that Libman teaches away from a designated target size" then goes-on to state that Applicants have "not claimed a minimum amount of loan samples for their set nor have they specifically stated that their invention does not include a large number of samples," but that the Applicants "merely stated that a sample size is created." (See paragraph 2 of the January 13, 2010 Office Action). Applicants have amended claim 36 to recite, in part, "a second tool to select an amount of the plurality of loans from each of the plurality of risk results *up to a designated maximum target loan sample size*" and claims 51 and 66 to recite, in part, "selecting . . . an amount of loans from each of the plurality of risk results *up to the designated maximum target loan sample size*." The Office Action alleges that Applicants have not "specifically stated that their invention does not include a large number of samples." Applicants respectfully assert neither Acosta et al., Business Wire, or Libman whether alone or in combination disclose the foregoing elements of claims 36, 51, and 66. In fact, Libman teaches away from at least the foregoing limitations because it does not disclose the placement of any limit whatsoever on the size of "a set" and articulates a clear rationalization in favor of "[a] *very large historic information set* from a variety of originators and servicers" by indicating that such a set "is desirable," albeit with no disclosed limit, because "a large number will dilute the effect of anomalies." Libman at par. [0042] (emphasis added). One of ordinary skill in the art reading Libman would not find that it discloses any limit on the size of a set and, in fact, would be more inclined not to place a limit on the size of a set based on the rationalization articulated in

Libman, that is, of diluting the effect of anomalies. In contrast, claim 36 recites, in part, “*up to the designated maximum* target loan sample size.” (Emphasis added). Applicants respectfully assert that Libman fails to disclose or suggest at least this limitation, and Acosta et al., Business Wire fail to cure this deficiency.

In particular, Acosta et al., namely column 1, lines 64 to column 3, line 16, column 3, lines 35-60, and column 9, lines 11-25, disclose a “[s]ampling methodology 10. . . stored on the server, and selected sampling parameters or criteria can include historical exception rates, confidence intervals, and precision. The number of records selected by the system is controlled in part by these sampling parameters or criteria.” (See column 3, lines 35-60 of Acosta et al.) In other words, the loan records stored in the system of Acosta et al. are sampled based on various sampling parameters or criteria as shown in FIGS. 3-6 of Acosta et al.

However, the analysis, including sampling, performed in Acosta et al. does not include aggregating loans in a loan pool into a plurality of risk results as required in claims 36, 51, and 66. That is, Acosta et al. does not aggregate or categorize the loan records based on risk prior to performing the sampling. Furthermore, Acosta et al. fails to teach or suggest “a second tool to select an amount of the plurality of loans from each of the plurality of risk results *up to a designated maximum target loan sample size*” as required in claims 36, 51, and 66. In other words, Acosta et al. does not include selecting an amount of loans from each category (i.e., plurality of risk results) up to the designated maximum target loan sample size.

Libman fails to cure the deficiencies of Acosta et al. The Office Action admits that “Acosta does not specifically teach aggregating a plurality of loans in a loan pool into a plurality

of risk results or selecting an amount of a plurality of loans from each of a plurality of risk results to make a sample size.” (See paragraphs 7, 29, and 51 of the June 9, 2009 Office Action). The Office Action relies upon paragraphs [0037] through [0046] and [0057] of Libman to disclose these features. However, these cited portions of Libman fail to disclose at least “a second tool to select an amount of the plurality of loans from each of the plurality of risk results *up to a designated maximum target loan sample size*” as recited in claim 36 or “selecting . . . an amount of loans from each of the plurality of risk results *up to the designated maximum target loan sample size*” as recited in claims 51 and 66.

In particular, Libman describes a method, as shown in FIG. 3, which includes steps of obtaining historic loan information, filtering historic loan information into pools, and determining the historic probability of delinquency for pools corresponding to multi-level factors. FIG. 4a of Libman illustrates an example of 15,000 loans and the probability of delinquency.

However, Libman, like Acosta, fails to disclose “a second tool to select an amount of the plurality of loans from each of the plurality of risk results up to a designated maximum target loan sample size” as recited in claim 36 or “selecting . . . an amount of loans from each of the plurality of risk results up to the designated maximum target loan sample size” as recited in claims 51 and 66. The filtering performed in Libman does not include filtering the loans from each of the loan pools *up to a designated maximum target loan sample size*. Instead, Libman teaches away from including this feature. Libman states “a very large historic information set from a variety of originators and servicers is desirable, since a large number will dilute the effect

of anomalies in origination or servicing processes.” In other words, Libman does not disclose sampling the pools (e.g., the pools in FIG. 4a), which are created from the historic information set, up to a designated maximum target loan sample size. Rather, in Libman, sampling up to a designated maximum target loan sample size is not used because a large information set is desirable. Accordingly, Applicants respectfully submit that Libman fails to disclose at least selecting an amount of the plurality of loans from each of the plurality of risk results up to a designated maximum target loan sample size as required in claims 36, 51, and 66.

Finally, Business Wire fails to cure the deficiencies of Acosta et al. and Libman. Business Wire discloses that “[l]oans may be randomly chosen from a loan portfolio or loans may be chosen based on user specific risk attributes to investigate potential areas of loss.” (See page 1 of Business Wire.) In other words, risk attributes may be used to choose loans in a loan portfolio. However, the loans in Business Wire are not aggregated into a plurality of risk results (i.e., categories), but are instead chosen based on risk results without the use of aggregation of the loans. Further, the loans in Business Wire are not chosen or selected from *each of the plurality of risk results up to the designated maximum target loan sample size*. In other words, Business Wire does not include selecting loans from each category (i.e., plurality of risk results) up to the designated maximum target loan sample size.

Accordingly, the combination of Acosta et al. and Business Wire fails to teach at least a “second tool to select an amount of the plurality of loans from each of the plurality of risk results up to a designated maximum target loan sample size” as recited in claim 36 or “selecting . . . an amount of loans from each of the plurality of risk results up to the designated maximum target

loan sample size” as recited in claims 51 and 66.

Dependent claims 37-50, 52-65, and 67-80 depend from one of independent claims 36, 51, and 66 thereby incorporating all of the features of their base claims. Accordingly, Applicants submit that Acosta et al., Business Wire, and Libman as well as Tealdi et al., Avery et al., Jewell, and Cole, whether taken individually or in combination, fail to render dependent claims 37-50, 52-65 and 67-80 obvious for at least the reasons discussed above. Claims 81-83 recite similar limitations and are allowable for at least the foregoing reasons.

For at least the reasons discussed above, Applicants respectfully request that the § 103 rejections to claims 36-80 be withdrawn.

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**CONCLUSION**

In view of the foregoing, reconsideration and timely allowance of the pending claims are respectfully requested. Should the Examiner feel that there are any issues outstanding after consideration of the response, the Examiner is invited to contact the Applicants' undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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